

DECISION

Dispute Codes ET FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord to end the tenancy early and obtain an Order of Possession and to request to recover the cost of the filing fee from the Tenants for this application.

Service of the hearing documents, by the Male Landlord, was done in accordance with section 89 of the *Act*, served personally to the Female Tenant, in the presence of a neighbor, on July 13, 2009. The Male Landlord was called into the hearing to confirm this service.

The Female Landlord appeared, gave affirmed testimony, was provided the opportunity to present her evidence orally, in writing, and in documentary form.

All of the testimony and documentary evidence was carefully considered.

Issues(s) to be Decided

Is the Landlord entitled to end the tenancy early and obtain an Order of Possession and a Monetary Order pursuant to sections 38, 56, 67, and 72 of the *Residential Tenancy Act*?

Background and Evidence

The month to month tenancy began on June 1, 2009 with rent payable on the first of each month in the amount of \$750.00. The Tenants paid a security deposit of \$375.00 and a pet deposit of \$200.00 on May 10, 2009.

The Landlord testified that the Tenants took possession of the rental unit on June 1, 2009 and on June 13, 2009 the Tenants had a gathering which involved loud music, arguing, swearing, and causing a disturbance to the neighbours. The Landlord advised that they had spoken to the Tenants throughout the evening asking them to be quieter but that the Tenants would respond by swearing and yelling at the Landlords and the Tenants continued with the noise until the early hours of the morning.

The Landlord argued that they had a meeting with the Tenants on June 14, 2009 and informed the Tenants that this behaviour was not acceptable and could not continue.

The Landlord advised that on June 21, 2009 the Tenants had another gathering where a fight broke out and the Landlords ended up calling the police who responded to break up the fight. It was after this event that the Tenants wrote a letter to the Landlords offering a behavioural contract if the Landlords allowed the Tenants to stay. The Landlord advised that she did not sign this behavioural contract and told the Tenants that they needed to be quiet.

The Landlord testified that the Tenants had a third party which is when the 1 Month Notice to End Tenancy for cause was issued and posted to the Tenants door on June 22, 2009.

The Landlord advised that on July 12, 2009 the Tenants had another party where they swore and yelled at the Landlords again. The Police were called and attended however the party continued until 5:00 a.m. disturbing the Landlords and neighbours.

The Landlord testified that neighbours have complained about the disturbances and the Landlords are nervous and concerned that the Tenants will not follow through with their promises to be quiet. The Landlord stated that they need to have these Tenants move out so they can return the peace to their neighbourhood.

The Landlord advised that a meeting was held between the Landlords, the Tenants, and one of the Tenant's mothers to come to an agreement about the Tenants vacating the rental unit and paying the outstanding rent.

The Landlord testified that the Tenants paid \$375.00 towards the July 1, 2009 rent and requested that the Landlords use their security deposit to pay the balance of rent payable for July 2009. The Landlords have agreed to use the security deposit of \$375.00 towards the balance of rent payable for July 2009.

The Landlords have come to an agreement to allow the Tenants to occupy the rental unit until July 31, 2009, providing the Tenants remain quiet and do not have any gatherings or parties for the remainder of the month. The Landlord requested an Order of Possession to be dated July 31, 2009 in the event the Tenants do not move out as per their agreement.

Analysis

Section 56(1) of the *Residential Tenancy Act* allows for a landlord to make an application for dispute resolution to request an order to end a tenancy early and to obtain an order of possession and Section 56(2) allows the director to issue such orders if the tenant or a person permitted on the residential property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property.

Based on the testimony and evidence before me, I find that the Tenants have significantly interfered with and unreasonably disturbed neighbours and Landlords. Based on the aforementioned and above mentioned agreement I hereby order the tenancy to end early and grant an Order of Possession as requested.

As the Landlords have been successful with their application, I find that they are entitled to recover the cost of the filing fee from the Tenants for this application.

Monetary Order – I find that the Landlords are entitled to a monetary claim to cover the cost of the filing fee and that this claim meets the criteria under section 72(2)(b) of the *Act* to be offset against the Tenant's pet deposit as follows:

Filing fee	50.00
Sub total (Monetary Order in favor of the landlord)	\$50.00
Less Pet Deposit of \$200.00 plus interest of \$0.00	-200.00
Balance of Tenant's Pet Deposit	\$150.00

The balance of the tenants' pet deposit is to be administered in accordance with Section 38 of the *Residential Tenancy Act*.

Conclusion

As per the agreement between the Landlords and the Tenants, the Tenants' security deposit of \$375.00 is to be retained by the Landlords as payment towards the balance owing for July 2009 rent.

I HEREBY FIND that the Landlords are entitled to an Order of Possession effective **July 31, 2009 at 1:00 p.m.** This order must be served on the Respondents and may be filed in the Supreme Court and enforced as an order of that Court.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: July 21, 2009.

Dispute Resolution Officer